IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

WRIT PETITION NO : 15329 of 1994

Between:

Tenali Taluka Educational Improvement Society Kollur,
Kollur Mandal, Guntur District, rep. by its President
Mr. Kanagala Subbarao S/o. Raghavaiah, 45 years,
r/o. Kollur.

..... PETITIONER

AND

1 The Director of Intermediate Education Andhra Pradesh,
Nampally, Hyderabad.

2 Regional Joint Director of Higher Education, Guntur.

3 District Vocational Educational Officer Guntur.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order, or direction more particularly one in the nature of Mandamus declaring the action of the 1st respondent in passing the order in Rc.No.2353/JC-5-2/92, dated 15.7.1994 appointing a Special Officer to G.V.S.R. & S.A.R. Junior College, Kollur under Section 24(3) of Andhra Pradesh Education Act is illegal, arbitrary and without jurisdiction and also direct the respondents to approve the appointment of Sri K. Suresh Babu as Correspondent of the College and pass

Counsel for the Petitioner: MR.B.ADINARAYANA RAO

Counsel for the Respondents: GP FOR HIGHER EDUCATION

The Court Made the Following :

ORDER:

The proceedings of the Director of Intermediate Education, Andhra Pradesh, Hyderabad, dated 15-07-1994, is impugned in this writ petition by the petitioner-management, Tenali Taluka Educational Improvement Society, Kollur, represented by its President.

It is totally unnecessary to go into the allegations and counter allegations in order to dispose of this writ petition at this stage. The competent authority in exercise of the power conferred under Section 24(3) of Andhra Pradesh Education Act, 1982,(for short 'the Act') appointed District Vocational Education Officer, Guntur, as Special Officer to run the day- to-day administration of the college run by the petitioner-management. That as is evident from the order, one
Dr. K. Ramakrishna Rao, Correspondent of G.V.S.R. & S.A.R. Junior College, Kollur, is alleged to have indulged in the act of misappropriation. He was issued show-cause notice under Section 24(4) of the Act to submit his explanation as to why he should not be declared unfit as correspondent of the college. The said Ramakrishna Rao, could not submit his explanation for whatever reason and ultimately he suffered a paralytic stroke and was unable to speak properly and move from the bed. In the impugned order it is alleged that the new correspondent of the college did not submit any reply to the show-cause notice issued to him and it is under those circumstances, a Special Officer was appointed.

Sri B. Adinarayana Rao, learned counsel for the petitioner, submitted that the impugned order passed by the competent authority is *ultra vires* since the same is not in conformity with Section 24(3)(a) of the Act, which reads as follows:-

> "Where the competent authority is satisfied that the management is responsible for the lapses or irregularities of the institution, the competent authority may, after giving to such management an opportunity to make representation and for reasons to be recorded in writing suspend the management and appoint a special officer till the reconstitution of the management.
>
> Provided that in relation to a private institution, under the management of a charitable or religious institution, charitable or religious endowment and a wakf, the competent authority shall be the Government or an authority or officer authorised by the Government in this behalf.
>
> [Provided further that under management of minority educational institution shall be suspended under this sub-section save for mismanagement]."

That a bare reading of the order discloses that no notice as such was issued to the management providing an opportunity to make a representation as to why a Special Officer could not be appointed. That apart there is no suspension of the management as such, as is required under Section 24(3)(a) of the Act, for the purpose of appointing a Special Officer in the place of the management till the reconstitution of management. It is under those circumstances, I find substantial force in the submission made by the learned counsel for the petitioner.

Be it as it may, the Special Officer so appointed by the

competent authority in purported exercise of its power under Section 24(3)(a) of the Act, shall remain in force till reconstitution of the management. It is submitted that the management underwent reconstitution twice after the impugned order has been passed by the competent authority.

This Court by its order, dated 26-09-1994, having admitted the writ petition suspended the operation of the impugned order and the said orders are subsisting as on today.

Viewed from any angle, the impugned order cannot be given effect to at this point of time since the validly constituted management continued to be in force. The provision is so clear that a Special Officer may be appointed to manage the day-to-day affairs in the absence of the management. Therefore, until the management has been suspended, the question of appointment of a Special Officer does not arise. Admittedly, there has been no suspension of the management, and, therefore, there was no space available for appointing a Special Officer.

In the circumstances, the impugned order is set aside. The writ petition is accordingly allowed to the extent. No order as to costs.

However, this order shall have no bearing upon the enquiry, if any, already initiated into any of the allegations against the management or to be initiated in accordance with law.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

To

1. The Director of Intermediate Education, Anhdhra Pradesh, Nampally, Hyderabad.
2. The Regional Joint Director of Higher Education, Guntur.
3. The District Vocational Educational Officer, Guntur.
4. 2 CCs to G.P. for Higher Education, High Court Buildings, Hyderabad (OUT)
5. 2 CD copies.